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02/04/2005

Petra Rejc

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EXAMINER

BRADFORD, CANDACE L

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/523,631
Filing Date: February 04, 2005
Appellant(s): REJC, PETRA

Michelle N. Lester
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/18/08 appealing from the Office
action mailed 7/28/08.(1) **Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5394924	Rejc	5-1995
6363993	Aquilina	4-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses an industrial gate with a gate body covering a gateway and having on either side a strap hinge 20, with a multiplicity of hinge members 22, that are interconnected such that they may be oriented at a relative angle, which are guided by rollers 26, in lateral guides 2', guiding said gate body free of contact, wherein said gate body includes a multiplicity of stiffening profile members 14, and a flexible hanging 38, 40, wherein each stiffening profile member extends transversely to the lateral guides across said gate body and connects two respective associated hinge members, and wherein said flexible hanging substantially covers a full surface of one side of said gate body while extending across stiffening profile members and being affixed at each stiffening profile member.

Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein said flexible hanging 38, 40 is subdivided into several hanging segments, as best seen in Figure 1.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein said

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flexible hanging 38, 40 is affixed across an entire width of the gate at a respective adjacent stiffening profile member 14.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein said flexible hanging 38, 40 is affixed at said respective adjacent stiffening profile member 14, in positive engagement.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein ends of each stiffening profile member 14, engage in said hinge members 22, so as to be accommodated therein when viewed in a direction of depth of said gate body, with sides thereof facing said flexible hanging substantially being flush with surfaces of said hinge members.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 1, wherein in a closed condition of said gate body there are a hinge plane and a hanging plane, wherein said hinge plane is substantially defined by pivot axes, as best seen in Figure 2 of said hinge members 22, that are interconnected such that they may be oriented at a relative angle, and said hanging plane is substantially defined by an extension of a major surface of said flexible hanging 38, 40, with said hinge plane and said hanging plane not coinciding.

Claim 11 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses the industrial gate in accordance with Claim 10,

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characterized in that said hinge plane and said hanging plane are arranged in immediate vicinity of each other, as best seen in Figure 2.

Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Rejc (5394924). Rejc discloses a reinforcing strip in accordance with Claim 1, characterized in that said flexible hanging 40, is affixed to said stiffening profile members 14, in respective locations adjacent a pivot axis of said hinge members 22, that are interconnected such that they may be oriented at a relative angle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rejc (5394924) in view of Aquilina (6363993). Rejc as advanced above fail to disclose a reinforcing strip in accordance with claim 1, Aquilina teaches the utility of a flexible hanging 50, includes in a range of each stiffening profile member 18, a reinforcing strip 22, that engages in an undercut groove at said associated stiffening profile member. The use of a reinforcing strip is commonly used in the art to provide additional support to the door panels. Therefore, it would have been obvious to one of ordinary skill in the art to provide the lifting door of Rejc with the reinforcing strip as taught by Aquilina so as to provide additional support to the door panels.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rejc (5394924) in view of Aquilina (6363993). Rejc as advanced above fail to disclose a reinforcing strip in accordance with Claim 5, Aquilina teaches the utility of the industrial gate wherein in portions of said gate body in which said flexible hanging 50, extends across a stiffening profile member 18, as best seen in Figure 3A, the reinforcing strip 22, is welded to said flexible hanging, as best seen in Figure 3. The use of a reinforcing strip is commonly used in the art to provide additional support to the door panels. Therefore, it would have been obvious to one of ordinary skill in the art to provide the lifting door of Rejc with the reinforcing strip as taught by Aquilina so as to provide additional support to the door panels.

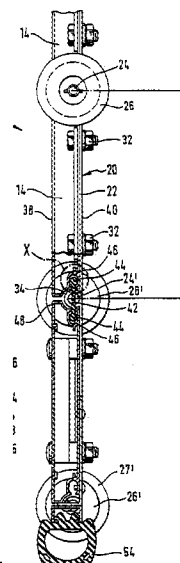
Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rejc (5394924) in view of Aquilina (6363993). Rejc as advanced above fail to disclose a reinforcing strip in accordance with Claim 5, Aquilina teaches the utility of the industrial gate, wherein one respective reinforcing strip 22, is formed on edge sides of said flexible hanging 50, or of each hanging segment thereof, respectively, which runs in parallel with said associated stiffening profile member 18. The use of a reinforcing strip is commonly used in the art to provide additional support to the door panels. Therefore, it would have been obvious to one of ordinary skill in the art to provide the lifting door of Rejc with the reinforcing strip as taught by Aquilina so as to provide additional support to the door panels.

(10) Response to Argument

In response to the applicant's argument that the Rejc reference do not teach any structure that can be characterized as a flexible hanging.

Appellant argues that neither the Rejc nor the Aquilina references teach a flexible hanging. However, as interpreted by the examiner the Rejc reference discloses a flexible hanging, viewed as the plurality of panels 38 or 40, which can be considered a flexible hanging when being operated, as best seen in Figures 1.

Appellant argues that elements 38,40,14 simply identify the surfaces of a slat. It should be noted that while 38, 40 show exterior surfaces, the examiner has viewed the flexible hanging as the plurality sections the plurality of panels 38 or 40, which can be considered a flexible hanging. It should be noted that section 14, is a distinct central



section, as best seen in the attached figure.

It should be further noted

that Aquilina is a secondary reference strictly use to teach the utility of reinforcing strips

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Candace L. Bradford

/KATHERINE W MITCHELL/

Supervisory Patent Examiner, Art Unit 3634

Conferees:

Katherine Mitchell

Darnell Jayne

/C.L.B./

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